

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

ALFREDO BARBA,)	
)	
Petitioner,)	
)	
v.)	Nos. 3:08-CR-46-PLR-CCS
)	3:13-CV-307-PLR
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

Petitioner Alfredo Barba moves to amend his motion brought under 28 U.S.C. § 2255 (“2255 Motion”) pursuant to Fed. R. Civ. P. 15(a) [Doc. 245]. In addition to his motion to amend, Petitioner has also filed a motion for default judgment based on the United States’ failure to respond [Doc. 248]; a motion to request ruling on his motion for default judgment [Doc. 250]; two motions to show cause based on the United States’ failure to serve Petitioner with a copy of its response to his 2255 Motion [Docs. 254, 257]; a motion to expand the scope of the § 2255 proceeding record [Docs. 264]; and two motions to reduce sentence pursuant to 18 U.S.C. § 3582 [Docs. 255, 265].

The United States has not opposed Petitioner’s motion to amend. Further, the motion to amend relies essentially on the same grounds as his original 2255 Motion. Consequently, for good cause shown, Petitioner’s motion to amend his 2255 Motion is **GRANTED** [Doc. 245]. Petitioner’s motion for default judgment [Doc. 248] and Petitioner’s motion to request ruling on his motion for default judgment [Doc. 250] are **DENIED** as moot since the United States did in fact respond to Petitioner’s 2255 Motion [Doc. 246]. In any event, the Court is charged with evaluating the 2255 motion on its merits irrespective of the United States’ lack of a

response. Petitioner's motions to show cause [Docs. 254, 257] are **DENIED** as the record reflects Petitioner was properly served with a copy of the United States' response to Petitioner's 2255 Motion [Doc. 246 p. 12]. Finally, Petitioner's motion to expand the scope of the proceedings is **DENIED**. The Court finds that all of Petitioner's ineffective assistance of counsel claims can be determined by review of the record as it currently stands.

The Court, by separate memorandum opinion and orders, will address the merits of Petitioner's motions for reduction in sentence and Petitioner's original 2255 motion and supplement.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge